

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA

ORIGINAL

FILED

PATRICK MURPHY,
Petitioner,

-vs.-

MIKE MULLIN, Warden, Oklahoma
State Penitentiary,

Respondent.

AUG 11 2003

William B. Guthrie
Clerk, U.S. District Court

By *AB* Deputy Clerk

DEATH PENALTY

CV 03-443-S
Case No.

**PRO SE REQUEST FOR APPOINTMENT OF COUNSEL
AND BRIEF IN SUPPORT**

Petitioner, Patrick Murphy, appearing pro se, respectfully moves the Court for leave to proceed *in forma pauperis* and further respectfully requests the appointment of counsel to assist in the preparation, filing, and presentation of a petition for a writ of habeas corpus pursuant to 28 U.S.C. Sec. 2254.

1. I am in the custody of the Warden of the Oklahoma State Penitentiary in McAlester, Oklahoma as a result of a first degree murder conviction and sentence of death entered by the District Court of McIntosh County, in Case No. CF-99-164A.
2. On appeal, the Court of Criminal Appeals affirmed my conviction and death sentence on May 22, 2002. *Murphy v. State*, 2002 OK CR 24, 47 P.3d 876 (2002), *cert. denied*, April 21, 2003. My Application for Post Conviction relief was denied and the Motion for Evidentiary Hearing was granted by the Court of Criminal Appeals of the State of Oklahoma on September 4, 2002. *Murphy v. State*, 2002 OK CR 32, 54 P.3d 556 (2002). On March 21, 2003 my Application for Post Conviction Relief Regarding Mental Retardation After Remand for Evidentiary Hearing was denied. *Murphy v. State*, 2003 OK CR 6, 66 P.3d 456 (2003).

3. I asserted a number of violations of the United States Constitution in state court proceedings, but the state courts did not remedy those violations. All of those claims are exhausted.
4. I am indigent.
5. I desire to pursue a federal habeas corpus action.
6. I request that this Court, pursuant to 21 U.S.C. § 848 (q)(4)(B) and *McFarland v. Scott*, 512 U.S. 849, 114 S.Ct. 2568, 129 L.Ed.2d 666 (1994), appoint experienced capital habeas corpus attorneys to represent me in federal court and prepare a habeas corpus petition for me. See also, Chapter Six of the Guide to Judiciary Policies and Procedures; 18 U.S.C § 3006A. Specifically, I request the appointment of the Death Penalty Federal Habeas Corpus Division of the Federal Public Defender's Office for the Western District of Oklahoma (the FPD), which, I am told, serves all federal districts in Oklahoma. Alternatively, I request appointment of a lawyer from the Special Death Penalty Habeas Corpus Panel maintained by the FPD.
7. I further request that this Court stay the running of any period of limitations until counsel is appointed.

I declare, under penalty of perjury, that the facts set forth above are true and correct.

Dated this 30 day of July, 2003.



PATRICK MURPHY
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